



February 10, 2009

## SENATE BILL No. 209

DIGEST OF SB 209 (Updated February 9, 2009 11:38 am - DI 102)

**Citations Affected:** IC 3-10; IC 3-11.7.

**Synopsis:** Public inspection of provisional ballot materials. Requires that election material related to provisional ballots (excluding the provisional ballots themselves) be made available for copying and inspection under the access to public records law in the same manner as other election material, except in the case of a recount or contest, when material related to provisional ballots remains confidential for six months after the completion of the recount or contest. Provides that information in material related to provisional ballots that identifies an individual, except for the individual's name, address, and birth date, remains confidential.

**Effective:** July 1, 2009.

**Young R Michael**

January 7, 2009, read first time and referred to Committee on Elections.  
February 9, 2009, amended, reported favorably — Do Pass.

C  
o  
p  
y

SB 209—LS 6915/DI 102+



February 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 209

---

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-10-1-31.1, AS AMENDED BY P.L.230-2005,  
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 31.1. (a) This section applies only to election  
4 materials for elections held after December 31, 2003.  
5 (b) The inspector of each precinct shall deliver the bags required by  
6 section 30(a) and 30(c) of this chapter in good condition, together with  
7 poll lists, tally sheets, and other forms, to the circuit court clerk when  
8 making returns.  
9 (c) Except for unused ballots disposed of under IC 3-11-3-31 or  
10 affidavits received by the county election board under IC 3-14-5-2 for  
11 delivery to the foreman of a grand jury, the circuit court clerk shall seal  
12 the ballots and other material during the time allowed to file a verified  
13 petition or cross-petition for a recount of votes or to contest the  
14 election. Except as provided in subsection (d) **and notwithstanding**  
15 **any other provision of state law**, after the recount or contest filing  
16 period, the election material, **including election material related to**  
17 **provisional ballots** (except for ballots **and provisional ballots**, which

SB 209—LS 6915/DI 102+



C  
o  
p  
y

remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the **following apply:**

**(1) The material for that election remains confidential until completion of the recount or contest.**

**(2) Notwithstanding subdivision (1), material related to the provisional ballots cast in that election remains confidential for six (6) months after the completion of the recount or contest.**

(e) Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) This subsection does not apply to ballots, **including provisional ballots.** Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

C  
o  
p  
y



1 **In addition, the county voter registration office shall keep**  
 2 **confidential information contained in material related to**  
 3 **provisional ballots that identifies an individual, except for the**  
 4 **individual's name, address, and birth date.**

5 (g) After the expiration of the period described in subsection (c) or  
 6 (d), the ballots may be destroyed in the manner provided by  
 7 IC 3-11-3-31 or transferred to a state educational institution as  
 8 provided by IC 3-12-2-12.

9 SECTION 2. IC 3-11.7-6-3 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) As required by  
 11 42 U.S.C. 15482, a county election board shall establish a free access  
 12 system such as a toll-free telephone number or an Internet web site that  
 13 enables a provisional voter to determine:

- 14 (1) whether the individual's provisional ballot was counted; and  
 15 (2) if the provisional ballot was not counted, the reason the  
 16 provisional ballot was not counted.

17 (b) As required by 42 U.S.C. 15482, the county election board shall  
 18 establish and maintain reasonable procedures to protect the security,  
 19 confidentiality, and integrity of personal information collected, stored,  
 20 or otherwise used on the free access system established by the board  
 21 under subsection (a).

22 (c) As required by 42 U.S.C. 15482, the county election board shall  
 23 restrict access to the ~~information available~~ **free access system**  
 24 **established** under subsection (a) ~~about a provisional voter's ballot~~  
 25 ~~to the individual voter who cast the provisional ballot.~~ **This subsection**  
 26 **does not restrict access to election materials available under**  
 27 **IC 3-10-1-31.1.**

28 (d) The county election board shall prescribe written instructions to  
 29 inform a provisional voter how the provisional voter can determine  
 30 whether the provisional voter's ballot has been counted.

**C**  
**O**  
**P**  
**Y**



## COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 209, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 9, after "the" insert "**following apply:**

**(1) The".**

Page 2, between lines 10 and 11, begin a new line block indented and insert:

**"(2) Notwithstanding subdivision (1), material related to the provisional ballots cast in that election remains confidential for six (6) months after the completion of the recount or contest."**

Page 2, line 37, after "ballot." insert "**In addition, the county voter registration office shall keep confidential information contained in material related to provisional ballots that identifies an individual, except for the individual's name, address, and birth date."**

and when so amended that said bill do pass.

(Reference is to SB 209 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 11, Nays 0.

C  
o  
p  
y

